

OFCCP REGULATIONS REGARDING INTERNET APPLICANTS

The Office of Federal Contract Compliance Programs (OFCCP) requires employers (including state agencies) ***who contract with the federal government and employ more than 50 employees to maintain certain information related to job openings and job applicants***. Until now, the OFCCP's regulations did not address or include record keeping requirements for information broadcast or received via the internet. However, due to the increased use of electronic media in the job market, the OFCCP recently amended its regulations to capture internet applicants and require the retention of certain records and information related to internet applicants. These amendments take effect on Monday, February 6, 2006.

As defined in the new regulations, an "internet applicant" is an individual meeting four criteria, briefly paraphrased as follows: (1) the individual submits an expression of interest by internet or electronic technologies (2) the employer considers the individual (3) the indication of interest indicates that the individual satisfies the basic qualifications for the job, and (4) the individual has not removed his or her name from consideration. The regulations mandate that employers make reasonable efforts to gather information related to the race, gender and ethnicity for all job applicants – now including internet applicants. The regulations also require that employers maintain records pertaining to electronic expressions of interest in job openings and the race, gender and ethnicity of the individuals expressing interest. Failure to comply with OFCCP regulations can lead to sanctions and debarment.

The full text of the regulations referenced above can be accessed by consulting the Code of Federal Regulations at 41 CFR S 60-1. Specifically, the definition of "internet applicant" is found in 41 CFR S 60-1.3 and the record retention requirement is found in 41 CFR S 60-1.12. Detailed discussions of the new regulations can be found at the U.S. Department of Labor's website with FAQs concerning internet applicants at <http://www.dol.gov/esa/regs/compliance/ofccp/faqs/iappfaqs.htm>

This email is to advise those state agencies that are covered by OFCCP regulations of this new amendment to the regulations concerning internet applicants. If you have any questions, please consult with your legal representative or your OHR consultant.